5. The Committee on Economic, Social and Cultural Rights was concerned that despite certain promising developments, economic, social and cultural rights remained generally non-justiciable in domestic courts.[7]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[8]

6. The Committee on the Elimination of Racial Discrimination regretted the absence of recent reliable and comprehensive statistical data on the ethnic composition of the population.[9] The Working Group of Experts on People of African Descent recommended implementing a nationwide mandatory policy on the collection of data, disaggregated by race, colour, ethnic background, national origin and other identities.[10]

7. The Committee on the Elimination of Racial Discrimination was concerned that racist hate crimes continued to be underreported, and about the 61 per cent increase in reports of racist hate crimes against Muslims.[11] The Working Group of Experts on People of African Descent was deeply concerned that the Black population was the most highly targeted group, experiencing 44 per cent of racial hate crimes.[12]

8. The Committee on the Elimination of Racial Discrimination was concerned by reports that racial profiling by the police, security agencies and border agents continued on a daily basis, with a harmful impact on indigenous peoples, as well as on ethnic minority Muslims, African Canadians and other ethnic minority groups.[13] The Working Group of Experts on People of African Descent indicated that arbitrary use of "carding", or street checks — the police practice of stopping, questioning and documenting people suspected of a crime — disproportionately affected people of African descent.[14]

9. The Special Rapporteur on the rights of indigenous peoples noted the enactment of legislation remediating some of the discriminatory effects of historical provisions that had revoked the Indian status of women — and all their descendants — who had married non-status men, while granting status to non-aboriginal women who had married status Indians. He indicated that unfortunately some classes of people continued to be excluded from status on the basis of the historical discrimination against matrilineal descent.[15] The Committee on Economic, Social and Cultural Rights was also concerned about the remaining gender-based discriminatory provisions and recommended that Canada repeal the remaining discriminatory provisions in the Indian Act.[16] The Committee on the Elimination of Discrimination against Women and the Human Rights Committee made similar recommendations.[17]

2. Development, the environment, and business and human rights[18]

10. The Committee on Economic, Social and Cultural Rights recommended that Canada raise the official development assistance level to meet the internationally recognized target of 0.7 per cent of gross national income, and pursue a human rights-based approach in its development cooperation policy.[19]

11. The Committee on Economic, Social and Cultural Rights was concerned that regulations governing environmental protection had been weakened in recent years and recommended that Canada further strengthen its legislation and regulations to ensure that environmental impact assessments, in accordance with its international obligations, were regularly carried out in the context of extractive industries.[20]

12. The Committee on the Elimination of Racial Discrimination reiterated its recommendation that Canada ensure access to justice through judicial and non-judicial remedies for violations of rights of persons by transnational corporations registered in Canada, operating abroad.[21] The Committee on Economic, Social and Cultural Rights recommended that Canada strengthen its legislation governing the conduct of corporations

registered or domiciled in Canada in their activities abroad.[37] The Working Group on the issue of human rights and transnational corporations and other business enterprises encouraged the federal Government to examine how it might use regulatory measures focused on mandatory due diligence and non-financial disclosure as means of promoting respect for human rights.[38]

3. Human rights and counter-terrorism

13. The Human Rights Committee recommended that Canada ensure that its anti-terrorism legislation provided adequate legal safeguards and did not undermine the exercise of the rights protected under the Covenant, provided adequate safeguards to ensure that information-sharing did not result in human rights abuses, and established a clear procedure allowing persons placed on the no-fly list to be able to challenge such a decision through judicial review.[39]

B. Civil and political rights

1. Right to life, liberty and security of person

14. The Working Group of Experts on People of African Descent was concerned about excessive use of force and police-involved deaths, especially when responding to cases involving vulnerable people of African descent, such as those who were mentally ill.[40]

15. The Human Rights Committee was concerned about the high level of overcrowding in some detention facilities; the many cases of administrative or disciplinary segregation (solitary confinement), sometimes for long periods of time, including of detainees with mental illness; reports of insufficient medical support to detainees with serious mental illness; and reported suicides in detention.[41] The Committee on the Elimination of Racial Discrimination was concerned at reports that both African Canadian and indigenous offenders were overrepresented in segregation, including indigenous inmate women.[42]

16. The Committee on the Elimination of Racial Discrimination recommended that Canada limit the use of segregation to exceptional circumstances, as a last resort and for as short a time as possible, in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners.[43] The Human Rights Committee made a similar recommendation and furthermore recommended taking effective measures to reduce overcrowding and improve access to treatment for prisoners with mental health issues.[44]

17. The Committee on the Rights of Persons with Disabilities was concerned about involuntary detention of persons with psychosocial disabilities in psychiatric institutions on the basis of impairment, across various Canadian jurisdictions; the lack of reasonable accommodation for women with disabilities within the federal prison system; and the adverse effect of their administrative segregation within detention facilities.[45]

2. Administration of justice, including impunity, and the rule of law

18. The Committee on the Elimination of Discrimination against Women recommended that Canada increase funding for civil legal aid in order to ensure that women had access to adequate legal aid in all jurisdictions, in particular victims of violence, and that it review criteria applied in income tests for eligibility to ensure access to civil legal aid, especially in the area of family law, for all women without sufficient means.[46]

19. The Committee on the Elimination of Racial Discrimination was concerned at the reportedly high rate of incarceration of indigenous peoples and persons belonging to minority groups, in particular African Canadians, and of minorities with mental or intellectual impairments.[47] The Committee on the Elimination of Discrimination against Women was also concerned at the high and rising incarceration rates of indigenous and African Canadian women.[48] The Special Rapporteur on indigenous peoples noted that aboriginal women had been the fastest-growing population in federal prisons.[49]

20. The Committee on the Elimination of Racial Discrimination recommended that Canada address the root causes of overrepresentation of African Canadians and indigenous peoples at all levels of the justice system, from arrest to incarceration, such as by eliminating poverty, providing better social services, re-examining drug policies and providing evidence-based alternatives to incarceration for non-violent drug users.[42]

21. The Committee on the Elimination of Discrimination against Women recommended that Canada repeal mandatory minimum sentencing for minor, non-violent drug-related offences.[43]

22. The Working Group of Experts on People of African Descent recommended developing and implementing an African Canadian justice strategy to address the anti-Black racism and discrimination within the criminal justice system.[44]

23. The Committee on the Elimination of Discrimination against Women was concerned about the high rates of HIV among female inmates and recommended that Canada expand care, treatment and support services to women in detention living with or vulnerable to HIV.[45]

3. Fundamental freedoms and the right to participate in public and political life[46]

24. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged Canada to decriminalize the defamation law and subsequently incorporate it into the civil code in accordance with international standards.[47]

25. The Human Rights Committee was concerned about reports of the excessive use of force by law enforcement officers during mass arrests in the context of protests at the federal and provincial levels including concerning indigenous land-related protests.[48]

26. The Committee on the Elimination of Discrimination against Women commended Canada on the appointment of a Cabinet with gender parity. Nevertheless, the Committee remained concerned about the structural obstacles to the realization of women's political rights and engagement in public life.[49]

4. Prohibition of all forms of slavery[50]

27. The Committee on the Elimination of Discrimination against Women was concerned about the lack of adequate mechanisms to identify and refer victims of trafficking in need of protection; reports that indigenous women and girls in foster care and in the child welfare system were particularly vulnerable to sex trafficking; and the potentially increased risk to the security and health of women in prostitution, in particular indigenous women, brought about by the criminalization of prostitution under certain circumstances as provided for in the new legislation.[51]

28. The Committee on the Elimination of Discrimination against Women recommended that Canada address the root causes of trafficking and of the exploitation of women and girls in prostitution by adopting and implementing adequately resourced programmes and other appropriate measures to create educational and employment opportunities for women at risk of being trafficked or of entering into prostitution.[52]

29. The Committee on the Elimination of Discrimination against Women was concerned about the low rates of prosecution and conviction in cases of trafficking in women and girls and recommended that Canada investigate, prosecute and adequately punish all cases of trafficking in persons.[53]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work[54]

30. The Committee on Economic, Social and Cultural Rights was concerned that in all provinces the minimum wage remained inadequate and fell short of living costs, and recommended that Canada ensure that it was increased in all jurisdictions and adjusted and

regularly indexed to the cost of living, so as to allow a decent living for all workers and their families.[56]

31. The Committee on the Elimination of Racial Discrimination was concerned by reports of discriminatory hiring practices and discrimination in the workplace faced by ethnic minorities, migrants and indigenous peoples, and of high rates of unemployment of educated ethnic minorities.[57]

32. The Working Group of Experts on People of African Descent noted the disproportionately high unemployment rates among African Canadians, many of whom were forced to take low-paying jobs with little security and poor prospects.[58] It indicated that long-term anti-poverty strategies should target the specific needs of African Canadians.[59] The Committee on Economic, Social and Cultural Rights recommended that Canada step up efforts to address unemployment faced by disadvantaged and marginalized groups and take measures to ensure the adoption of employment equity legislative and policy measures in all jurisdictions.[60]

33. The Committee on Economic, Social and Cultural Rights was concerned that women were overrepresented in part-time work and in low-paid sectors, thus perpetuating the gender segregation in the workplace and the gender wage gap.[61] The Committee on the Elimination of Discrimination against Women was concerned at the persistence of the gender wage gap and recommended adopting legislation in the federal jurisdiction and in all provincial and territorial jurisdictions on the principle of equal pay for work of equal value, and increasing the minimum wage, which many women disproportionately received, and creating more opportunities for women to gain access to full-time employment, including by adopting a rights-based national childcare framework in order to provide sufficient and adequate childcare facilities.[62]

2. Right to social security[63]

34. The Committee on Economic, Social and Cultural Rights was concerned at the inadequate social assistance rates in all provinces and for all households and at the lack of accountability provisions in the Federal Social Transfer, and recommended that Canada ensure that social assistance rates were increased in all provinces to levels that allowed a decent living for beneficiaries and their families.[64]

3. Right to an adequate standard of living[65]

35. Considering the advanced level of development of Canada, the Committee on Economic, Social and Cultural Rights was concerned about the significant number of people living in poverty. It was also concerned that indigenous peoples, persons with disabilities, single mothers and minority groups continued to experience higher rates of poverty, and at the limited effectiveness of measures taken to address that issue.[66]

36. The Special Rapporteur on indigenous peoples highlighted the distressing socioeconomic conditions of indigenous peoples. He took note of statistics indicating that of the bottom 100 Canadian communities on the Community Well-Being Index, 96 were First Nations and only one First Nation community was in the top 100. The Special Rapporteur stated, however, that it did not appear that Canada had dedicated greater resources to social services for indigenous peoples.[67]

37. The Working Group of Experts on People of African Descent indicated that anti-Black racism continued to be systemic, leaving African Canadians among the poorest communities in Canada. It also noted reports indicating a pattern of steady decline in the economic situation, and increasing poverty, of African Canadians.[68]

38. The Committee on the Rights of Persons with Disabilities was concerned at the fact that nearly 15 per cent of persons with disabilities lived in poverty or extreme poverty and that many persons with disabilities, including persons with psychosocial and intellectual disabilities, faced homelessness. It was also concerned that financial support was insufficient to guarantee an adequate standard of living for persons with disabilities.[69]

39. The Committee on Economic, Social and Cultural Rights recommended that Canada take all measures necessary to combat poverty more effectively while paying particular attention to groups and individuals who were more vulnerable to poverty.[70]

40. The Committee on Economic, Social and Cultural Rights was concerned at the increasing number of homeless persons in Canada, the lack of adequate measures to prevent homelessness, the shortage of adequate emergency shelters and the existence of anti-camping and other by-laws that penalized homeless persons in some jurisdictions.[71]

41. The Special Rapporteur on indigenous peoples indicated that the housing situation in Inuit and First Nations communities had reached crisis level. Overcrowded housing was endemic and homes were in need of major repairs. Those conditions added to the broader and troubling water situation in First Nations reserves, in which more than half of the water systems posed a medium or high health risk to their users.[72] The Committee on Economic, Social and Cultural Rights expressed similar concerns and urged Canada to intensify its efforts to address the indigenous peoples' housing crisis and to live up to its commitment to ensure access to safe water and to sanitation for the First Nations.[73]

42. In 2017, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, commended Canada for announcing the adoption of its first-ever national housing strategy. She noted that the strategy focused on particularly vulnerable groups, and was aimed at addressing issues including homelessness, housing affordability, inadequate housing conditions, and insufficient supply of social housing stock. However, she was disappointed by the Government's failure to commit to ending all forms of homelessness by 2030 in keeping with Sustainable Development Goal 11. She expressed the hope that Canada would revisit this before finalizing the strategy.[74]

4. Right to health[75]

43. The Committee on the Elimination of Discrimination against Women welcomed the commitment of Canada to reviewing its drug policy with a view to shifting from a criminal to a public health and harm reduction approach. Nevertheless, the Committee was concerned about the significant legislative and administrative barriers to access to supervised consumption services, especially in the light of the continuing nationwide opioid overdose crisis.[76] The Committee recommended that Canada define harm reduction as a key element of its federal strategy on drugs, establish a transparent process for exemptions permitting the operation of supervised consumption services without the risk of criminal prosecution, and take measures to prevent overdose deaths.[77]

44. The Committee on Economic, Social and Cultural Rights was concerned that undocumented immigrants in Canada were denied access to health care.[78]

45. The Committee on the Rights of Persons with Disabilities was concerned that persons with disabilities continued to face physical, financial and attitudinal barriers in accessing information and health-care services, including with regard to sexual and reproductive health and rights, and notably abortion, and that the cost of medication remained a significant obstacle.[79]

46. The Special Rapporteur on indigenous peoples indicated that although overall the health situation of indigenous peoples had improved in recent years, significant gaps still remained in the health outcomes of aboriginal as compared to non-aboriginal Canadians. He noted that health care for aboriginal people was delivered through a complex array of federal, provincial and aboriginal services, and that concerns had been raised about the adequacy of coordination among them.[80]

5. Right to education[81]

47. The Committee on the Elimination of Racial Discrimination was concerned at the reported disparity in resource allocation for education and the lack of sufficient funding of mother tongue education programmes, leading to unequal access to quality education, especially for African Canadian and indigenous children, which contributed to future socioeconomic disparity among those groups.[82]

48. The Committee on Economic, Social and Cultural Rights was concerned at the high dropout rates of African Canadian children at all school levels.[84] The Working Group of Experts on People of African Descent recommended that Canada strengthen special measures to increase the level of educational attainment of African Canadian children, in particular by preventing their marginalization and reducing their dropout rates.[85]

49. The Special Rapporteur on indigenous peoples noted that at every level of education, indigenous people overall continued to lag far behind the general population. Government representatives had attributed the gap in educational achievement in large measure to high levels of poverty, the historical context of residential schools, and systemic racism. The Special Rapporteur also noted that numerous First Nations leaders had alleged that federal funding for primary, secondary and post-secondary education was inadequate.[86]

50. UNESCO indicated that during the previous universal periodic review cycle a large number of recommendations on the issue of education[87] had concerned aboriginal, First Nations and other indigenous communities, notably in terms of access, empowerment, non-discrimination and inclusion. Since education was regulated at the provincial and territorial levels, most measures had been introduced at those levels, with the exception of a few nationwide measures.[87] UNESCO recommended that Canada take further measures to make education equally accessible for aboriginal students, to pursue financial support for their education and to ensure that education was culturally acceptable to them.[88]

51. UNESCO indicated that although inclusion of students with special needs existed to varying degrees in all provinces and territories, no federal legislation protected explicitly the right of children with disabilities to inclusive education.[89] The Committee on the Rights of Persons with Disabilities was concerned about the persistence of segregated special education environments for students with disabilities who required a high level of support or when it was considered that a student with disabilities may interfere in the educational process of his or her peers. The Committee recommended that Canada promote the enrolment in education of all persons with disabilities.[90]

52. UNESCO recommended that Canada place more emphasis on the principles of non-discrimination and inclusion in education, especially for minority groups and persons with disabilities.[91]

53. The Committee on the Elimination of Discrimination against Women was concerned at the high number of girls who suffered from discrimination and sexual harassment in schools and the disproportionate number of migrant, refugee, asylum-seeking and indigenous girls, as well as girls with disabilities, who continued to face difficulties in gaining access to high-quality education.[92] The Committee on Economic, Social and Cultural Rights was concerned about reports of barriers for children whose parents had no legal status to access schooling.[93]

D. Rights of specific persons or groups

1. Women[94]

54. The Committee on Economic, Social and Cultural Rights was concerned about the persistence of violence against women, which was particularly prevalent among indigenous women and girls and was further exacerbated by the economic insecurity of women.[95] The same Committee recommended that Canada step up its efforts to protect victims of violence, including by ensuring the availability of a sufficient number of adequate shelters for victims of violence, as well as long-term housing solutions and adequate social assistance.[96] The Human Rights Committee recommended that Canada take measures to effectively enforce its criminal legislation at the federal, provincial and territorial levels, and that it ensure effective application of the Victims Bill of Rights Act.[97] The Committee on the Elimination of Discrimination against Women recommended that Canada expeditiously adopt a national action plan, in consultation with civil society organizations, especially indigenous women's organizations, to combat gender-based violence against women.[98]

55. In its 2015 report on its inquiry concerning Canada, the Committee on the Elimination of Discrimination against Women noted reports that aboriginal women and girls experienced extremely high levels of violence in Canada, as shown by the high number of disappearances and murders of aboriginal women, noting that they reported rates of violence, including domestic violence and sexual assault, that were 3.5 times higher than those for non-aboriginal women.[99] The Committee issued recommendations to Canada concerning — inter alia — data collection, police investigations and law enforcement, access to justice, victim services, aboriginal women in prostitution and trafficking, and improving the socioeconomic conditions of aboriginal women.[100]

56. In 2016, the Committee on the Elimination of Discrimination against Women commended Canada on its decision in 2015 to establish a national inquiry into missing and murdered indigenous women and girls, which had been one of the main recommendations arising from the Committee's inquiry. However, the Committee was concerned about the insufficient measures taken to ensure that all cases of missing and murdered indigenous women were duly investigated and prosecuted and about the absence of an action plan or coordinated mechanism to oversee the implementation of the outstanding 37 recommendations it had issued.[101] While welcoming the national inquiry, the Committee on the Elimination of Racial Discrimination was concerned at the lack of an independent mechanism to re-examine cases where there was evidence of inadequate or biased investigations, and at the failure to provide regular progress reports and to build transparent and accountable relationships with survivors, families and stakeholders.[102]

57. The Committee on the Elimination of Discrimination against Women recommended that Canada fully implement, without delay, all recommendations issued by the Committee in its report on its inquiry, that it ensure that all cases of missing and murdered indigenous women were duly investigated and prosecuted, and that it complement the terms of reference of the national inquiry.[103]

2. Children[104]

58. The Working Group of Experts on People of African Descent was concerned by reports that, across Canada, African Canadian children were taken from their parents by child welfare agencies on dubious grounds without respect for the extended care opportunities that existed in African Canadian families and communities.[105] It indicated that Canada should adopt effective measures to address the root causes of overrepresentation of African Canadian children in childcare institutions. All efforts should be taken to keep the family together and alternatives to removing the child from his or her parents should be considered.[106]

59. The Committee on Economic, Social and Cultural Rights was concerned at the higher likelihood of indigenous children being placed in childcare institutions, which was further exacerbated by the inadequate funding for child welfare services to indigenous peoples living on reserves.[107]

60. The Committee on the Elimination of Racial Discrimination was alarmed that despite its previous recommendation and multiple decisions by the Canadian Human Rights Tribunal, less money was reportedly provided for child and family services for indigenous children than for children in other communities, and that this gap was continuing to grow.[108] It recommended that Canada fully comply with and implement the January 2016 ruling and subsequent non-compliance orders, of the Canadian Human Rights Tribunal; and ensure that all children, on and off reserve, had access to all services available to other children in Canada, without discrimination.[109]

3. Persons with disabilities[110]

61. The Committee on the Rights of Persons with Disabilities was concerned about the persisting gaps in the exercise and enjoyment of rights by persons with disabilities, such as the rights to education, work and employment and an adequate standard of living, due to, among other things, a lack of affordable housing and of access to water and sanitation. It recommended that Canada adopt cross-sectoral strategies with a view to combating inequality and discrimination faced by persons with disabilities through, inter alia,

affirmative action measures that included clear targets and the collection of data on progress achieved.[111]

4. Minorities and indigenous peoples

62. The Committee on Economic, Social and Cultural Rights was concerned about the inadequate funding for and promotion of African art and culture, which added to the structural discrimination faced by that group in the enjoyment of economic, social and cultural rights in Canada.[112]

63. The Special Rapporteur on indigenous peoples indicated that approximately 90 aboriginal languages were spoken in Canada and that two thirds of those languages were endangered, due in no small part to the intentional suppression of indigenous languages during the Indian residential school era.[113]

64. The Special Rapporteur on indigenous peoples indicated that the relationship of Canada with the indigenous peoples within its borders was governed by a well-developed legal framework and a number of policy initiatives that in many respects were protective of indigenous peoples' rights. He noted, however, that daunting challenges remained and that the numerous initiatives that had been taken at the federal and the provincial and territorial levels to address the problems faced by indigenous peoples had been insufficient.[114]

65. The Special Rapporteur on indigenous peoples stated that a particularly distressing part of the history of human rights violations had been the residential school era (from 1874 to the 1970s, with some schools operating until 1996), during which indigenous children had been forced from their homes into institutions, the explicit purpose of which had been to destroy their family and community bonds, their languages, their cultures and even their names.[116]

66. The Working Group on the issue of human rights and transnational corporations and other business enterprises noted that in 2015, the Truth and Reconciliation Commission had presented its final report, to shed light on the colonial history of a more than century-long policy to eliminate indigenous cultures and governments.[117] The Committee on the Elimination of Racial Discrimination recommended developing an action plan to implement the Truth and Reconciliation Commission's 94 calls to action, in consultation with indigenous peoples.[118]

67. The Committee on Economic, Social and Cultural Rights was concerned that the right of indigenous peoples to free, prior and informed consent to any change to their lands and territories was not adequately incorporated in domestic legislation and not consistently applied. The Committee also remained concerned about the lack of formal mechanisms and processes to enable meaningful consultation with indigenous peoples, particularly in the context of the operation of extractive industries.[119]

68. The Committee on the Elimination of Racial Discrimination was concerned that violations of the land rights of indigenous peoples continued; in particular, environmentally destructive decisions for resource development which affected their lives and territories continued to be undertaken without the free, prior and informed consent of the indigenous peoples. Costly, time-consuming and ineffective litigation was often the only remedy, in place of seeking such consent.[120] The Human Rights Committee made similar observations and was also concerned about reports of the potential extinguishment of indigenous land rights and titles.[121]

69. The Committee on the Elimination of Racial Discrimination recommended that Canada prohibit the environmentally destructive development of the territories of indigenous peoples, and allow indigenous peoples to conduct independent environmental impact studies; end the substitution of costly legal challenges as post facto recourse in place of obtaining meaningful free, prior and informed consent; and incorporate the free, prior and informed consent principle in the Canadian regulatory system.[122]

70. The Committee on the Elimination of Racial Discrimination noted information it had received that permits had been issued and construction commenced at the Site C dam, despite the vigorous opposition of indigenous peoples affected by this project. It recommended that Canada immediately suspend all permits and approvals for the

construction of the Site C dam and identify alternatives to the irreversible destruction of indigenous lands and subsistence caused by this project.[123]

71. Noting information received about the impact of the Mount Polley mining disaster on indigenous peoples in the area, the same Committee recommended that Canada publicly release the results of any government studies of the Mount Polley disaster and the criminal investigation into the disaster, before the statute of limitations for charges under the relevant acts expired.[124]

5. Migrants, refugees, asylum seekers and internally displaced persons[125]

72. The Working Group of Experts on People of African Descent noted that seasonal migrant workers of African descent were often subjected to deplorable working conditions. It indicated that many such workers were denied access to basic health services and that although they were required to pay into Canadian social benefit programmes, often they could not access those programmes.[126] The Committee on the Elimination of Racial Discrimination recommended that Canada reform current policies and measures to ensure protection of temporary migrant workers and that it grant them access to health services and employment and pension benefits.[127]

73. The Committee on Economic, Social and Cultural Rights remained concerned that certain categories of foreign workers, including temporary and seasonal migrant workers, were vulnerable to exploitation by employers, especially as their work permit was tied to a specific employer.[128] The Committee on the Elimination of Discrimination against Women was concerned about the practice of issuing employer-specific closed work permits, which made it challenging for migrant workers, including caregivers, to leave abusive employment situations. It recommended that Canada discontinue the use of such permits in the Temporary Foreign Workers Program, thereby enabling migrant domestic workers to freely change employers and thus improving their working and living conditions and reducing the risk of abuse.[129]

74. The Human Rights Committee was concerned that any migrant and asylum seeker designated as an "irregular arrival" would be subject to mandatory detention until his or her status was established, and would not enjoy the same rights as those who had arrived "regularly". It was also concerned about exceptions to the principle of non-refoulement in the Immigration and Refugee Protection Act and recommended that Canada consider amending subsection 115 (2) of the Act to fully comply with the principle of non-refoulement.[130]

75. The Committee on the Elimination of Racial Discrimination noted that in the context of limitations in the Safe Third Country Agreement, there was reportedly a sharp rise in the number of asylum seekers attempting to enter the Canada through irregular border crossings, in dangerous or life-threatening conditions. The Committee recommended that Canada rescind or at least suspend the Safe Third Country Agreement to ensure that all individuals who attempted to enter Canada through a land border were provided with equal access to asylum proceedings.[131]

76. The Office of the United Nations High Commissioner for Refugees (UNHCR) stated that in 2012 Canada had undergone a major refugee reform, and noted a number of positive changes for asylum seekers. However, the reform had led to new strains on the asylum system, as it had had to comply with shorter timelines and inadequate funding to recruit sufficient decision-makers. UNHCR noted that in the first year after the reform, asylum claims had dropped dramatically, but that since 2014, asylum claims had steadily been increasing.[132] UNHCR recommended that Canada reinforce strategies to reduce the Immigration and Refugee Board's current backlog and prevent additional delays in asylum procedures.[133]

77. UNHCR stated that the Canada Border Services Agency had made progress in its stated objective of creating a better and fairer immigration detention system policy. It also indicated that the Agency had significantly reduced the detention of children in recent years and was resorting more frequently to alternatives to detention.[134]

78. UNHCR noted, nevertheless, that several protection gaps remained. First, there was no provision in the law that limited the length of detention, so individuals could be detained for lengthy periods of time, including for administrative reasons, such as inability to remove them from Canada for lack of travel documents. Second, while the law provided that children should only be detained as a measure of last resort, taking into account their best interests, there was no assessment procedure in place. Third, there was no uniform or consistent national practice for the use of alternatives to detention and there was a limited number of alternative options available.[110]

79. UNHCR recommended that Canada adhere to the principle that detention of asylum seekers and refugees should be used only as a measure of last resort, and that it progressively end the detention of asylum-seeking and refugee children, establishing and implementing alternatives to detention that fully considered their best interests.[111] The Committee on the Elimination of Racial Discrimination made a similar recommendation.[112]

6. Stateless persons[113]

80. UNHCR noted that there was no specific mechanism to determine and address statelessness in Canada because the Government considered that the refugee determination system, or an application for permanent residence based on humanitarian and compassionate considerations, adequately responded to the situation of stateless persons. However, that process did not contain statelessness among the criteria upon which legal status could be granted and, therefore, the majority of humanitarian and compassionate claims submitted by stateless persons were rejected. UNHCR recommended that Canada establish a statelessness determination procedure and a protected "stateless person status", and that it facilitate the naturalization procedure for stateless persons.[114]

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Canada will be available at www.ohchr.org/EN/Countries/LACRegion/Pages/CAIndex.aspx.
[2] For relevant recommendations, see A/HRC/24/11, paras. 128.1–128.15, 128.27–128.36, 128.47, 128.53, 128.60, 128.77, 128.101–128.112 and 128.115.
[3] See CEDAW/C/CAN/CO/8-9, para. 57; CERD/C/CAN/CO/21-23, para. 34; and A/HRC/36/60/Add.1, para. 85 (a).
[4] See E/C.12/CAN/CO/6, para. 20; CERD/C/CAN/CO/21-23, para. 35; and CEDAW/C/CAN/CO/8-9, para. 29.
[5] See CERD/C/CAN/CO/21-23, para. 34.
[6] Ibid., para. 35.
[7] See E/C.12/CAN/CO/6, para. 61; CERD/C/CAN/CO/21-23, para. 35; and A/HRC/36/60/Add.1, para. 85 (a).
[8] See UNHCR submission for the universal periodic review of Canada, p. 4.
[9] *OHCHR Report 2016*, pp. 78–79, 83–84, 113 and 117; *OHCHR Report 2015*, pp. 61, 67 and 94; *OHCHR Report 2014*, pp. 63, 69 and 74; and *OHCHR Report 2013*, pp. 131, 137 and 142.
[10] For relevant recommendations, see A/HRC/24/11, paras. 128.27–128.30, 128.60–128.61, 128.66–128.67 and 128.119–128.120.
[11] See CRPD/C/CAN/CO/1, para. 58.
[12] See E/C.12/CAN/CO/6, para. 5.
[13] For relevant recommendations, see A/HRC/24/11, paras. 128.17–128.20, 128.23–128.26 and 128.37–128.52.
[14] See CERD/C/CAN/CO/21-23, paras. 5–6.
[15] See A/HRC/36/60/Add.1, para. 86.
[16] See CERD/C/CAN/CO/21-23, para. 13.
[17] See A/HRC/36/60/Add.1, para. 49.
[18] See CERD/C/CAN/CO/21-23, para. 15.
[19] See A/HRC/36/60/Add.1, para. 35 and 78.
[20] See A/HRC/27/52/Add.2, para. 55.
[21] See E/C.12/CAN/CO/6, paras. 21–22.
[22] See CEDAW/C/CAN/CO/8-9, para. 13; and CCPR/C/CAN/CO/6, para. 17.
[23] For relevant recommendations, see A/HRC/24/11, paras. 128.151–128.152.

[5] See E/C.12/CAN/CO/6, para. 12.
[6] Ibid., para. 53.
[7] See CERD/C/CAN/CO/21-23, paras. 21–22. See also CCPR/C/CAN/CO/6, para. 6.
[8] See E/C.12/CAN/CO/6, para. 16.
[9] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21680&LangID=E.
[10] For relevant recommendations, see A/HRC/24/11, paras. 128.153–128.157 and 128.162.
[11] See CCPR/C/CAN/CO/6, para. 10.
[12] For relevant recommendations, see A/HRC/24/11, paras. 128.22, 128.101, 128.121, 128.148, 128.155–128.156 and 128.158–128.162.
[13] See A/HRC/36/60/Add.1, para. 78.
[14] See CCPR/C/CAN/CO/6, para. 14.
[15] See CERD/C/CAN/CO/21-23, para. 15. See also A/HRC/36/60/Add.1, para. 79.
[16] See CERD/C/CAN/CO/21-23, para. 16. See also A/HRC/36/60/Add.1, para. 79.
[17] See CCPR/C/CAN/CO/6, para. 14.
[18] See CRPD/C/CAN/CO/1, para. 31.
[19] For relevant recommendations, see A/HRC/24/11, paras. 128.45, 128.54, 128.98, 128.102–128.103, 128.122 and 128.158–128.160.
[20] See CEDAW/C/CAN/CO/8-9, para. 15.
[21] See CERD/C/CAN/CO/21-23, para. 15. See also A/HRC/36/60/Add.1, para. 79.
[22] See CEDAW/C/CAN/CO/8-9, para. 48.
[23] See A/HRC/27/52/Add.2, para. 32.
[24] See CERD/C/CAN/CO/21-23, para. 16. See also CCPR/C/CAN/CO/6, para. 18.
[25] See CEDAW/C/CAN/CO/8-9, para. 45.
[26] See A/HRC/36/60/Add.1, para. 89 (a).
[27] See CEDAW/C/CAN/CO/8-9, paras. 48–49.
[28] For relevant recommendations, see A/HRC/24/11, paras. 128.18, 128.51 and 128.162.
[29] See UNESCO submission for the universal periodic review of Canada, para. 20.
[30] See CCPR/C/CAN/CO/6, para. 11.
[31] See CEDAW/C/CAN/CO/8-9, paras. 34–35. See also CCPR/C/CAN/CO/6, para. 7.
[32] For relevant recommendations, see A/HRC/24/11, paras. 128.107–128.111.
[33] See CEDAW/C/CAN/CO/8-9, para. 32.
[34] Ibid., para. 33.
[35] Ibid., paras. 32–33.
[36] For relevant recommendations, see A/HRC/24/11, paras. 128.25, 128.55 and 128.71–128.72.
[37] See E/C.12/CAN/CO/6, paras. 25–26.
[38] See CERD/C/CAN/CO/21-23, para. 31.
[39] See A/HRC/36/60/Add.1, paras. 57 and 80.
[40] Ibid., para. 94 (a).
[41] See E/C.12/CAN/CO/6, para. 24.
[42] Ibid., para. 21. See also CCPR/C/CAN/CO/6, para. 7.
[43] See CEDAW/C/CAN/CO/8-9, paras. 38–39.
[44] For relevant recommendations, see A/HRC/24/11, paras. 128.60, 128.64 and 128.128–128.129.
[45] See E/C.12/CAN/CO/6, paras. 29–30.
[46] For relevant recommendations, see A/HRC/24/11, paras. 128.57, 128.62, 128.67–128.70, 128.123–128.127 and 128.130–128.133.
[47] See E/C.12/CAN/CO/6, para. 37.
[48] See A/HRC/27/52/Add.2, paras.15–16.
[49] See A/HKC/36/60/Add.1, paras. 53–54.
[50] See CRPD/C/CAN/CO/1, para. 49.
[51] See E/C.12/CAN/CO/6, para. 38.
[52] Ibid., para. 41.
[53] See A/HRC/27/52/Add.2, para. 24.
[54] See E/C.12/CAN/CO/6, paras. 43–44.
[55] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22435&LangID=E.
[56] For relevant recommendations, see A/HRC/24/11, paras. 128.73–128.76 and 128.127.
[57] See CEDAW/C/CAN/CO/8-9, para. 44.
[58] Ibid., para. 45. See also E/C.12/CAN/CO/6, para. 50.
[59] See E/C.12/CAN/CO/6, para. 49.
[60] See CRPD/C/CAN/CO/1, paras. 45–46.
[61] See A/HRC/27/52/Add.2, para. 29–30.
[62] For relevant recommendations, see A/HRC/24/11, paras. 128.47, 128.72, 128.75, 128.134–128.144 and 128.149.

[82] See CERD/C/CAN/CO/21-23, para. 29.
[83] See E/C.12/CAN/CO/6, para. 55.
[84] See A/HRC/36/60/Add.1, para. 94(c).
[85] See A/HRC/27/52/Add.2, paras. 17 and 20.
[86] For relevant recommendations, see A/HRC/24/11, paras. 128.47, 128.72, 128.75, 128.135–128.144 and 128.149.
[87] See UNESCO submission, para. 11.
[88] Ibid., para. 19.2.
[89] Ibid., para. 18.
[90] See CRPD/C/CAN/CO/1, paras. 43–44.
[91] See UNESCO submission, para. 19.3.
[92] See CEDAW/C/CAN/CO/8-9, para. 36.
[93] See E/C.12/CAN/CO/6, para. 55.
[94] For relevant recommendations, see A/HRC/24/11, paras.128.57–128.59, 128.71 and 128.79–128.107.
[95] See E/C.12/CAN/CO/6, para. 33.
[96] Ibid., para. 34.
[97] See CCPR/C/CAN/CO/6, para. 8.
[98] See CEDAW/C/CAN/CO/8-9, para. 25.
[99] See CEDAW/C/OP.8/CAN/1, para. 3. See also CEDAW/C/OP.8/CAN/2 and CEDAW/C/OP.8/CAN/3.
[100] See CEDAW/C/OP.8/CAN/1, paras. 216–220; CEDAW/C/OP.8/CAN/2; and CEDAW/C/OP.8/CAN/3.
[101] See CEDAW/C/CAN/CO/8-9, para. 26.
[102] See CERD/C/CAN/CO/21-23, para. 23.
[103] See CEDAW/C/CAN/CO/8-9, paras. 26–27. See also CEDAW/C/OP.8/CAN/1, paras. 216–220; CEDAW/C/OP.8/CAN/2; and CEDAW/C/OP.8/CAN/3.
[104] For relevant recommendations, see A/HRC/24/11, paras. 128.60, 128.92, 128.97, 128.109–128.120 and 128.128–128.129.
[105] See A/HRC/36/60/Add.1, para. 68.
[106] Ibid. See also E/C.12/CAN/CO/6, para. 36.
[107] See E/C.12/CAN/CO/6, para. 35.
[108] See CERD/C/CAN/CO/21-23, para. 27.
[109] Ibid., para. 28.
[110] For relevant recommendations, see A/HRC/24/11, paras. 128.141–128.145.
[111] See CRPD/C/CAN/CO/1, paras. 13–14.
[112] For relevant recommendations, see A/HRC/24/11, paras. 128.45–128.47, 128.49, 128.53–124.54, 128.57, 128.59–128.80, 128.83–128.106, 128.123, 128.127, 128.129, 128.132 and 128.134–128.139.
[113] See E/C.12/CAN/CO/6, para. 59.
[114] See A/HRC/27/52/Add.2, para. 23. See also E/C.12/CAN/CO/6, paras. 59–60.
[115] See A/HRC/27/52/Add.2, paras. 80–81.
[116] Ibid., para. 5.
[117] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21680&LangID=E.
[118] See CERD/C/CAN/CO/21-23, para. 18.
[119] See E/C.12/CAN/CO/6, para. 13. See also CCPR/C/CAN/CO/6, para. 16.
[120] See CERD/C/CAN/CO/21-23, para. 19.
[121] See CCPR/C/CAN/CO/6, para. 16.
[122] See CERD/C/CAN/CO/21-23, para. 20.
[123] Ibid., paras. 19–20.
[124] Ibid.
[125] For relevant recommendations, see A/HRC/24/11, paras. 128.26, 128.49, 129.146–128.150 and 128.162.
[126] See A/HRC/36/60/Add.1, paras. 59 and 81.
[127] See CERD/C/CAN/CO/21-23, paras. 33–34.
[128] See E/C.12/CAN/CO/6, para. 27.
[129] See CEDAW/C/CAN/CO/8-9, para. 25.
[130] See CCPR/C/CAN/CO/6, paras. 12–13.
[131] See CERD/C/CAN/CO/21-23, paras. 33–34.
[132] See UNHCR submission, p. 1.
[133] Ibid., p. 5.
[134] Ibid., pp. 1–2.
[135] Ibid., pp. 2–3.
[136] Ibid., p. 3.

[17] See CERD/C/CAN/CO/21-23, para. 33.
[18] For the relevant recommendation, see A/HRC/24/11, para. 128.10.
[19] See UNHCR submission, pp. 3–4.